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UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINE REFUGEES IN THE NEAR EAST

Letter dated 7 April 1993 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

In my capacity as Chairman of the General Assembly's Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), I wish to bring to your attention the Group's concerns about the critical financial situation facing UNRWA this year.

The Commissioner-General of UNRWA has informed the Agency's major donors and other members of the international community that UNRWA faces a deficit totalling some $28.5 million in fiscal year 1993 of its budget for the biennium 1992-1993.

Of this projected deficit, some $17 million is anticipated as a shortfall in the funding of the General Fund budget. This finances the bulk of the Agency's vital education, health, relief and social services for some 2.7 million registered Palestine refugees living in Jordan, Lebanon, the Syrian Arab Republic and the occupied territory of the West Bank and Gaza Strip. The remaining $11.5 million of the projected deficit would arise from a lack of funding for the Agency's Extraordinary Measures for Lebanon and the Occupied Territory (EMLOT), which have been providing crucial emergency, general assistance and rehabilitation programmes for refugees in those areas.

The reasons for this gap in the funding of the UNRWA budget may be summarized as follows: reductions in spending on overseas development aid by some Governments have meant a levelling off or actual cuts in contributions to humanitarian agencies such as UNRWA; currency devaluations and fluctuations have also cut sharply into the resources of UNRWA, much of whose expenditures,

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* A/48/50.

including the salaries of many of its 20,000 staff, are calculated in dollars; and, finally, there is a steady annual increase in the number of refugees, through demographic growth and increased need, who rely on UNRWA services.

The shortfall in the General Fund will mean not only that the Agency will be unable to enhance services to the refugees, or to respond to new needs, but also that there will inevitably be a drop in the quality of existing services. For example, about 400,000 Palestine refugee children attend UNRWA schools. Many of those schools already have more than 50 children in a classroom. Such overcrowding will worsen this year, with serious repercussions for educational standards, if the Agency cannot build additional classrooms and employ additional teachers for nearly 13,000 new students.

The health care provided by UNRWA to Palestine refugees will suffer similar negative effects. In some UNRWA health centres in Gaza, doctors already see more than 200 patients a day. The UNRWA hospitalization programme also may have to be cut back, with serious implications for many refugees, especially the poorest among them.

UNRWA relief services will also face cutbacks. The Special Hardship Case programme, which caters to the neediest refugees, will have to be frozen at 1992 levels and there will be no funds to buy blankets, shoes and clothing or to provide cash assistance to families whose homes are destroyed.

Equally alarming is the projected lack of funding for EMLOT. Unless the Agency can obtain those funds, urgently needed emergency programmes in Lebanon, the Gaza Strip and the West Bank will have to be halted or curtailed. These include emergency afternoon clinics, a legal aid scheme, assistance to refugees whose homes have been damaged, sealed or demolished, and the Refugee Affairs Officer (RAO) programme. This programme, introduced in the occupied territory after the outbreak of the intifadah, is of even greater importance now in a period of increased hardship and spiralling violence. The RAO programme has been much appreciated by the Palestinian community and by major donors alike, and any reduction in this area would have serious consequences.

At a time when regional and global economies are in a troubled state, the refugee community in the UNRWA area of operations is especially vulnerable to the effects of increasing socio-economic hardship. This is particularly the case in the occupied territory and Lebanon. About 7 per cent of the refugees registered with UNRWA are special hardship cases; of these over 70 per cent are in those three fields. Cuts in the services which Palestine refugees need most in their daily lives - providing them with food, education, health care and shelter - would be unconscionable.

As this letter is written, all Palestinians in the Gaza Strip and West Bank are being barred from entry to Israel and east Jerusalem. During 1992, the Gaza Strip was completely sealed off twice within six months. Then as now, tens of thousands of labourers were unable to work in Israel, merchants were unable to market their wares, agricultural produce could not be exported and the economy ground to a halt, leading to the loss of tens of millions of dollars.

The budget constraints faced by UNRWA could not have come at a worse time. With efforts under way to regenerate and invigorate the Middle East peace

process, a reduction in services by the United Nations agency charged with looking after the basic human needs of Palestine refugees would send the wrong signal to those who have the most to gain or lose from the outcome of the negotiations. Given its fragility, the peace process should at all stages be accompanied by socio-economic measures which would increase confidence in the negotiations.

The Commissioner-General has issued three appeals to major donors, most recently in February 1993, and has followed these up with visits to capitals. Most recently, he has visited Bahrain, Qatar, Saudi Arabia and the United Arab Emirates, in the hope that the financial and economic resources of the Gulf States, together with their sympathy and support for the Palestine refugees, could enable them to increase their hitherto limited contributions to UNRWA. A special meeting of the Advisory Commission of UNRWA was held at Vienna in March, followed by a briefing for major donors.

I would like to add the voice of the Working Group on the Financing of UNRWA to those who are appealing for increased financial support to this vital humanitarian programme of the United Nations.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly under item 85 of the preliminary list.

(Signed) Mustafa AKŞIN
Ambassador
Permanent Representative

UNITED NATIONS

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Items 14 and 59 of the preliminary list*
REPORT OF THE INTERNATIONAL ATOMIC ENERGY AGENCY
COMPLIANCE WITH ARMS LIMITATION AND DISARMAMENT AGREEMENTS

SECURITY COUNCIL
Forty-eighth year

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council a letter dated 6 April 1993 addressed to him by the Director General of the International Atomic Energy Agency transmitting his report on behalf of the Board of Governors of the Agency concerning non-compliance with safeguards obligations (see annex).

* A/48/50.

ANNEX

Letter dated 6 April 1993 from the Director General of the International Atomic Energy Agency to the Secretary-General

Further to my letter to you of 1 April 1993, I enclose herewith a report entitled "Report by the Director General of the International Atomic Energy Agency on Behalf of the Board of Governors to the Security Council and to the General Assembly of the United Nations on the Non-compliance of the Democratic People's Republic of Korea with the Agreement between the IAEA and the Democratic People's Republic of Korea for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/403) and on the Agency's Inability to Verify the Non-Diversion of Material Required to be Safeguarded" (see appendix).

As explained in my letter, the report is submitted pursuant to paragraphs 4 and 5 of the resolution (GOV/2645) adopted by the Agency's Board of Governors on 1 April 1993.

I should be grateful if you would now bring the report to the attention of the Security Council and of the General Assembly. It is being circulated as a separate document to States members of the International Atomic Energy Agency.

(Signed) Hans BLIX

APPENDIX

REPORT BY THE DIRECTOR GENERAL OF THE INTERNATIONAL ATOMIC ENERGY AGENCY ON BEHALF OF THE BOARD OF GOVERNORS TO THE SECURITY COUNCIL AND TO THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON THE NON-COMPLIANCE OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA WITH THE AGREEMENT BETWEEN THE IAEA AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (INFCIRC/403) AND ON THE AGENCY'S INABILITY TO VERIFY THE NON-DIVERSION OF MATERIAL REQUIRED TO BE SAFEGUARDED

1. The Board of Governors of the International Atomic Energy Agency (IAEA) met on 31 March and 1 April 1993 to consider a "Report by the Director General on the implementation of the resolution adopted by the Board on 25 February 1993 (GOV/2636) and of the Agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/403)".

2. On 1 April, the Board adopted the resolution reproduced in Annex 1. In operative paragraph 1 of the resolution, the Board,

> "Finds, based on the Report of the Director General, that the DPRK is in non-compliance with its obligations under its Safeguards Agreement with the Agency."

In operative paragraph 2, the Board,

> "Further finds, pursuant to Article 19 of the Agreement, that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded under the terms of the Safeguards Agreement to nuclear weapons or other nuclear explosive devices."

In operative paragraph 4, the Board,

> "Decides, as required by Article XII.C. of the Statute and in accordance with Article 19 of the Agreement, to report the DPRK's non-compliance and the Agency's inability to verify non-diversion of nuclear material required to be safeguarded, to all Members of the Agency and to the Security Council and General Assembly of the United Nations."

and in operative paragraph 5,

"Requests the Director General to make the report referred to in operative paragraph 4 above on behalf of the Board."

3. The present report is made pursuant to operative paragraphs 4 and 5 of the resolution. It sets out the background to and basis on which the Board of Governors, through the Director General of the Agency, now brings its findings to the attention of the Security Council and to the General Assembly.

(A) IMPLEMENTATION OF THE DPRK'S AGREEMENT WITH THE AGENCY

4. The DPRK acceded to the NPT in December 1985. Article III.1 of the Treaty provides that

> "Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices". .....
>
> "The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere".

5. The Agreement between the DPRK and the IAEA for the Application of Safeguards in Connection with the NPT (Annex 2) entered into force on 10 April 1992. Pursuant to Article 62 of the Agreement, the DPRK submitted on 4 May 1992 an Initial Report on nuclear material subject to safeguards under the Agreement. Pursuant to Article 71(a), ad hoc inspections were begun in May 1992 to verify the correctness of the information contained in the Initial Report and to assess its completeness.

6. Among the activities carried out during the ad hoc inspections was the sampling of material presented for verification at a nearly-completed spent fuel reprocessing facility referred to as the Radiochemical Laboratory. The material had been declared by the DPRK as the plutonium product and associated waste solutions resulting from a campaign carried out in 1990, involving the reprocessing of irradiated fuel elements from the DPRK's 5 MWe Experimental Power Reactor. The DPRK stated that only one reprocessing campaign had been carried out at the Radiochemical Laboratory.

7. As a result of inspection activities, apparent inconsistencies began to emerge in July 1992. In particular, it was not possible to reconcile information declared by the DPRK regarding the irradiation history of the reprocessed fuel and the details of the reprocessing campaign with the findings of the Agency's verification activities. The specific differences included:

(a) The characteristics of the declared and presented plutonium product are not consistent with the irradiation history of the fuel declared by the DPRK to have been processed during the single reprocessing campaign;

(b) The characteristics of the presented plutonium product and waste and the declared irradiation history of the reprocessed fuel are mutually inconsistent and inconsistent with the declaration that they resulted from the single campaign.

8. In an effort to resolve these and related inconsistencies, the Agency undertook additional sampling activities, requested access to operating records of the relevant facilities, solicited clarifications from the DPRK authorities and requested that Agency officials be permitted to visit two sites located in the Nyongbyon Nuclear Research Centre that the Agency had reason to believe were related to nuclear waste. During the brief visits permitted, respectively, on 11 and 14 September, following the third ad hoc inspection, one of the sites was found not to be nuclear-related. The visit to the other site was limited to the visible part of what appeared to be a one-storey building under military control. However, subsequent information indicates that the building has an additional below-ground level which was not visited.

9. Additional information was obtained during the fourth inspection, but the significant inconsistencies remained unresolved. In response to the Director General's proposal in November to send senior Agency officials to the DPRK for discussions, the DPRK proposed instead that these be held in Vienna.

10. In a meeting in Vienna from 30 November to 1 December 1992, the DPRK Minister of Atomic Energy, Minister Choi, was advised in detail of the Agency's concerns: there was an urgent need to clarify the inconsistencies between the information which the DPRK had provided on the spent fuel said to have been reprocessed at the Radiochemical Laboratory and the Agency's findings; the Agency needed to revisit the site visited by Agency officials on 14 September, in particular, to obtain access to and take samples from the below-ground level of the building. At the meeting it was understood that the DPRK would provide to the sixth IAEA inspection team (January 1993) the information necessary to resolve the inconsistencies and that the DPRK would respond to the Agency's request to revisit the building site. In this connection, in a cable dated 22 December 1992, the Director General, inter alia, made clear that, although the DPRK had stressed that the building was under military control, the Agency's interest in it was confined to ascertaining the purpose and use of the spaces under the floor of the building. The Director General also indicated the possible need to visit a second site in the Nyongbyon Centre.

11. In a series of exchanges between Minister Choi and the Director General, the DPRK objected to such a visit and the taking of samples, emphasizing in particular that the location previously visited was on a military site not relevant to the DPRK's nuclear activities. The Director General reiterated that the Agency had no interest in military, non-nuclear aspects of any site to be visited, but that a site could not be exempted from visits or inspections on the basis of its military character if, as was the case in this instance, the Agency had reason to believe such access to be relevant to the implementation of the Safeguards Agreement.

12. All these points were again emphasized during the visit of a team of senior Agency officials to the DPRK from 20-22 January 1993. The Agency team also explained that, in the absence of clarification of the inconsistencies, the Agency could not exclude the possibility that material from either the IRT Research Reactor or the 5 MWe Experimental Power Reactor had been reprocessed but not declared to the IAEA. In the light of this, the presence in the DPRK of additional plutonium -- grams or kilograms -- could not be precluded. The team underlined the Agency's need for prompt access to the two sites, having specified during the consultations the location of the second site in the Nyongbyon Centre, and indicated its preparedness to carry out such a visit.

13. The DPRK objected to and declined to permit the proposed visits not only on the grounds that they would require access to military non-nuclear sites but also because in requesting access to them the Agency had made use of information from a third party. The Agency team explained that inconsistencies identified as a result of the analysis of samples of nuclear material and waste and of information provided by the DPRK had cast doubts on the completeness of the Initial Report of the DPRK and that, against this background, the information in the possession of the Agency with regard to the two sites could not be ignored.

14. The inconsistencies were again discussed in depth during the visit of the sixth Agency inspection team to the DPRK (January 1993). Although some additional information was provided by the DPRK, satisfactory explanations and adequate documentary evidence were not offered. Nor was the inspection team's offer of its availability for any visits to the two apparently nuclear waste-related sites accepted.

15. On the basis of the results of verification activities carried out over a period of many months, and taking into account the consultations held with the DPRK in extensive but unsuccessful efforts to resolve the inconsistencies identified by the Agency, it was concluded that the information made available by the DPRK, including explanations, was not adequate to permit the Agency to fulfil its responsibilities under the Agreement, in particular, to confirm the correctness and completeness of the Initial Report on the inventory of nuclear material in the DPRK.

16. Against this background, the Director General, on 9 February 1993, requested the DPRK to provide access under Article 73(b) to additional information and locations relating to the following:

(a) With respect to additional information, the Agency needed clarification of the inconsistencies between the information provided by the DPRK and the Agency's findings concerning the plutonium product which had been declared and presented, as well as the associated wastes and their characteristics. Further information was necessary to clarify the inconsistencies noted, such as relevant historical records, and records concerning waste and waste disposal sites. The list of principal inconsistencies was attached.

(b) With respect to additional locations, and as a part of the necessary clarification, it was essential to obtain access to, and take samples from, two sites which the Secretariat has reason to believe are nuclear waste-related:

(i) The site which Agency officials had visited on 14 September 1992 and which was located east of the Radiochemical Laboratory; and

(ii) A site on the opposite side of the road from a nuclear waste storage site shown to Agency inspectors.

17. On 15 February 1993, a reply was received in which the Minister of Atomic Energy of the DPRK said that he would come to Vienna with experts to present further clarification. However, despite the Agency's lengthy discussions with Minister Choi and his delegation on 20-21 February, no meaningful progress was made.

(B) MEETINGS OF THE IAEA BOARD OF GOVERNORS

18. On 22 February 1993 the Director General submitted a report on the matter to the Board of Governors, which on 25 February 1993, adopted resolution GOV/2636 (Annex 3) inter alia calling upon the Government of the Democratic People's Republic of Korea urgently to extend full cooperation to the IAEA to enable the Agency fully to discharge its responsibilities under the Safeguards Agreement and to respond positively and without delay to the Director General's request of 9 February 1993 for access to additional information and two additional sites. The Board of Governors decided that access to the additional information and sites was essential and urgent in order to resolve differences and to ensure verification of compliance with INFCIRC/403. The Director General was requested to continue dialogue with the DPRK with a view toward urgent resolution of the issues, and to report again to the Board of Governors on the matter not later than one month from the date of adoption of the resolution at a further meeting of the Board of Governors to be convened for this purpose.

19. On 26 February, the Director General forwarded the text of the resolution to the DPRK, requesting the co-operation of the DPRK in its implementation (Annex 4). In particular, the Director General asked that the DPRK receive an inspection mission to seek additional information required by the Agency and to secure access to the two additional sites referred to in the resolution.

20. On 10 March, the DPRK informed the Director General that the Government of the DPRK reserved its consideration of the receipt of the inspection team, referring to the resumption of the joint military exercise "Team Spirit" by the United States and the Republic of Korea and the "state of semi war" ordered by the Supreme Commander of the DPRK from 9 March. (Annex 5).

21. On the same day, the Director General replied to this communication, advising the DPRK that the "state of semi war" could not impede the implementation of the Safeguards Agreement. (Annex 6). He further requested the DPRK to consider positively the receipt of the inspection team at the earliest possible date.

22. The Agency subsequently received the statement of 12 March by the Government of the DPRK declaring its decision to withdraw from the Treaty on the Non-proliferation of Nuclear Weapons (NPT) as a measure to defend its supreme interests. (Annex 7). In its statement, the DPRK indicated that this stand would remain unchanged "until the United States stops its nuclear threats against the DPRK and the IAEA Secretariat returns to its principle of independence and impartiality".

23. On 12 March, the Director General wrote to the DPRK advising that the Safeguards Agreement remained in force until any withdrawal from the NPT took effect (Annex 8) and that a declaration of intention to withdraw from the Treaty shall not impede the implementation of the Safeguards Agreement*.

24. On 16 March, the DPRK replied to the Director General's communication of 12 March stating that because - inter alia - "some officials of the IAEA Secretariat departed from the objectivity and impartiality and joined in a plot of a party in hostilities towards [the DPRK] which is trying to strangle our socialist system", the DPRK "cannot receive the Agency inspection teams". (Annex 9).

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* FOOTNOTE

Article 26 of the Safeguards Agreement with the DPRK provides that the Agreement shall remain in force for as long as the DPRK is a party to the NPT. Having regard to the terms of Article X.1 of the NPT, it is clear that the Safeguards Agreement with the DPRK remains in force for three months after notice has been given by the DPRK in accordance with Article X.1 of the NPT.

25. On 16 March 1993 the Director General reported these developments to the Board of Governors which, on 18 March, adopted a further resolution GOV/2639 (Annex 10) which, inter alia, approved the efforts of the Secretariat to implement the Board's resolution, confirmed that the safeguards agreement between DPRK and the Agency remained in force and that it was essential and urgent that the DPRK enable the Agency to take the necessary measures to resolve differences and to ensure verification of compliance with the Safeguards Agreement, requested the Director General to continue his efforts and dialogue, taking all the appropriate contacts, and to report further on the response of the DPRK to the resolution of 25 February at a meeting of the Board to be held on 31 March 1993.

26. On 19 March 1993, the Director General forwarded to the DPRK the resolution adopted by the Board on 18 March, reiterating his request that the DPRK arrange for access by Agency inspection teams. He further advised the DPRK that, if access were not to be obtained, he would have no choice but to report non-compliance when the Board met again on 31 March. (Annex 11). The Director General further indicated that the DPRK's characterization of the two sites which the Agency wishes to visit as military sites, in no way immunizes them from inspection. However the IAEA was ready to discuss arrangements which might minimize security concerns, if such could be found that did not reduce the effectiveness of the inspection, including sample taking. Finally, the Director General expressed his regret about the statements in the DPRK telex of 16 March 1993 concerning the impartiality and objectivity of the IAEA Secretariat, stating that, in his view and the view of the Board, such statements were unfair. He added that the Secretariat consistently endeavoured to implement safeguards in the DPRK as elsewhere with objectivity and impartiality. This would continue to be its policy.

27. On 30 March, the Director General received a telex from the Minister of Atomic Energy of the DPRK regarding the telex transmitting the Board resolution of 18 March. (Annex 12). Although in that telex the DPRK has expressed a readiness to consult "on the implementation of the agreement" it has not granted access either to the additional information and locations requested by the Director General on 9 February and determined by the Board to be essential and urgent to ensure verification of compliance with the safeguards agreement. In this context, the telex contains a reaffirmation that the issue of special inspections cannot be a matter for discussion.

28. In the light of the above the Director General reported to the Board on 31 March 1993 that "as of now, the DPRK continues to be in non-compliance with its general obligation to co-operate in the implementation of the Safeguards Agreement provided for in Article 3* of that Agreement. More specifically, it continues to be in non-compliance with Articles 18, 73, 77* and Article 71* of the Safeguards Agreement. This is because it continues to deny access both to the additional information and locations requested by the Director General on 9 February 1993 and determined by the Board to be essential and urgent to ensure verification of compliance with INFCIRC/403 (Articles 18, 73 and 77) and also to deny the access required for the purpose of ad hoc inspections (Article 71). As a result, the Agency is unable to verify that there has been no diversion of nuclear material required to be safeguarded under the Agreement to nuclear weapons or nuclear explosive devices." On the basis of that report the Board adopted the resolution reproduced in Annex 1.

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* FOOTNOTES

Article 3

"The Democratic People's Republic of Korea and the Agency shall co-operate to facilitate the implementation of the safeguards provided for in this Agreement."

Article 18

"If the Board, upon report of the Director General, decides that an action by the Democratic People's Republic of Korea is essential and urgent in order to ensure verification that nuclear material subject to safeguards under this Agreement is not diverted to nuclear weapons or other nuclear explosive devices, the Board may call upon the Democratic People's Republic of Korea to take the required action without delay, irrespective of whether procedures have been invoked pursuant to Article 22 of this Agreement for the settlement of a dispute."

Article 73

"Subject to the procedures laid down in Article 77, the Agency may make special inspections:

(a) in order to verify the information contained in special reports; or

(b) if the Agency considers that information made available by the Democratic People's Republic of Korea, including explanations from the Democratic People's Republic of Korea and information obtained from routine inspections, is not adequate for the Agency to fulfil its responsibilities under this Agreement.

An inspection shall be deemed to be special when it is either additional to the routine inspection effort provided for in Articles 78-82 or involves access to information or locations in addition to the access specified in Article 76 for ad hoc and routine inspections, or both."

Article 77

"In circumstances which may lead to special inspections for the purposes specified in Article 73 the Democratic People's Republic of Korea and the Agency shall consult forthwith. As a result of such consultations the Agency may:

(a) make inspections in addition to the routine inspection effort provided for in Articles 78-82; and

(b) obtain access, in agreement with the Democratic People's Republic of Korea, to information or locations in addition to those specified in Article 76. Any disagreement concerning the need for additional access shall be resolved in accordance with Articles 21 and 22; in case action by the Democratic People's Republic of Korea is essential and urgent, Article 18 shall apply."

Article 71

"The Agency may make ad hoc inspections in order to:

(a) verify the information contained in the initial report on the nuclear material subject to safeguards under this Agreement;

(b) identify and verify changes in the situation which have occured since the date of the initial report; and

(c) identify, and if possible verify the quantity and composition of, nuclear material in accordance with Articles 93 and 96, before its transfer out of or upon its transfer into the Democratic People's Republic of Korea."

ATTACHMENT

Article XII.C of the Statute of the International Atomic Energy Agency

".....[Agency's staff of] inspectors shall report any non-compliance to the Director General who shall thereupon transmit the report to the Board of Governors. The Board shall call upon the recipient State or States to remedy forthwith any non-compliance which it finds to have occurred. The Board shall report the non-complicance to all members and to the Security Council and General Assembly of the United Nations."

Article 19 of the Safeguards Agreeement between the Democratic People's Republic of Korea and the International Atomic Energy Agency (INFCIRC/403)

"If the Board, upon examination of relevant information reported to it by the Director General, finds that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded under this Agreement to nuclear weapons or other nuclear explosive devices, it may make the reports provided for in paragraph C of Article XII of the Statute of the Agency (hereinafter referred to as "the Statute") and may also take, where applicable, the other measures provided for in that paragraph. In taking such action the Board shall take account of the degree of assurance provided by the safeguards measures that have been applied and shall afford the Democratic People's Republic of Korea every reasonable opportunity to furnish the Board with any necessary reassurance."

ANNEX 1

REPORT BY THE DIRECTOR GENERAL ON THE IMPLEMENTATION OF THE RESOLUTION ADOPTED BY THE BOARD ON 25 FEBRUARY 1993 (GOV/2636) AND OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (INFCIRC/403)

Resolution adopted by the Board on 1 April 1993

The Board of Governors,

(a) Recalling its Resolution (GOV/2636) of 25 February 1993 and Resolution (GOV/2639) of 18 March 1993,

(b) Noting that there has been no positive response from the DPRK by the end of March,

(c) Having considered the Report of the Director General (GOV/2643) and, in particular, the conclusions in paragraph 12, that the DPRK is in non-compliance with the terms of its Safeguards Agreement with the Agency and,

(d) Taking account of the rights and obligations under that Agreement,

1. Finds, based on the Report of the Director General, that the DPRK is in non-compliance with its obligations under its Safeguards Agreement with the Agency;

2. Further finds, pursuant to Article 19 of the Agreement, that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded under the terms of the Safeguards Agreement to nuclear weapons or other nuclear explosive devices;

3. Calls upon the DPRK to remedy forthwith its non-compliance, including by granting without further delay access to specific additional information and to two locations as set out in the Director General's request to the DPRK of 9 February 1993;

4. Decides, as required by Article XII.C. of the Statute and in accordance with Article 19 of the Agreement, to report the DPRK's non-compliance and the Agency's inability to verify non-diversion of nuclear material required to be safeguarded, to all Members of the Agency and to the Security Council and General Assembly of the United Nations;

5. Requests the Director General to make the report referred to in paragraph 4 above on behalf of the Board;

6. Requests the Director General to continue his efforts and dialogue to implement fully the Agreement and to keep the Board informed of any significant developments;

7. Decides to remain seized of the matter.

ANNEX 2

AGREEMENT OF 30 JANUARY 1992 BETWEEN THE GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

1. The text of the Agreement between the Government of the Democratic People's Republic of Korea and the International Atomic Energy Agency for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons [1/] is reproduced in this document for the information of all Members. The Agreement was approved by the Agency's Board of Governors on 12 September 1991 and signed in Vienna on 30 January 1992.

2. The Agreement entered into force, pursuant to Article 25, on 10 April 1992.

1/ Reproduced in document INFCIRC/140.

AGREEMENT BETWEEN THE GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

WHEREAS the Government of the Democratic People's Republic of Korea (hereinafter referred to as "the Democratic People's Republic of Korea") is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as "the Treaty") opened for signature at London, Moscow and Washington on 1 July 1968 and which entered into force on 5 March 1970;

WHEREAS paragraph 1 of Article III of the Treaty reads as follows:

"Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere".

WHEREAS the International Atomic Energy Agency (hereinafter referred to as "the Agency") is authorized, pursuant to Article III of its Statute, to conclude such agreements;

NOW THEREFORE the Democratic People's Republic of Korea and the Agency have agreed as follows:

P A R T I

BASIC UNDERTAKING

A r t i c l e 1

The Democratic People's Republic of Korea undertakes, pursuant to paragraph 1 of Article III of the Treaty, to accept safeguards, in accordance with the terms of this Agreement, on all source or special fissionable material in all peaceful nuclear activities within its territory, under its jurisdiction or carried out under its control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices.

APPLICATION OF SAFECUARDS

Article 2

The Agency shall have the right and the obligation to ensure that safeguards will be applied, in accordance with the terms of this Agreement, on all source or special fissionable material in all peaceful nuclear activities within the territory of the Democratic People's Republic of Korea, under its jurisdiction or carried out under its control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices.

CO-OPERATION BETWEEN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA AND THE AGENCY

Article 3

The Democratic People's Republic of Korea and the Agency shall co-operate to facilitate the implementation of the safeguards provided for in this Agreement.

IMPLEMENTATION OF SAFEGUARDS

Article 4

The safeguards provided for in this Agreement shall be implemented in a manner designed:

(a) to avoid hampering the economic and technological development of the Democratic People's Republic of Korea or international co-operation in the field of peaceful nuclear activities, including international exchange of nuclear material;

(b) to avoid undue interference in the Democratic People's Republic of Korea's peaceful nuclear activities, and in particular in the operation of facilities; and

(c) to be consistent with prudent management practices required for the economic and safe conduct of nuclear activities.

Article 5

(a) The Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of this Agreement.

(b) (i) The Agency shall not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of this Agreement, except that specific information relating to the implementation thereof may be given to the Board of Governors of the Agency (hereinafter referred to as "the Board") and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfil its responsibilities in implementing this Agreement.

/...

(ii) Summarized information on nuclear material subject to safeguards under this Agreement may be published upon decision of the Board if the States directly concerned agree thereto.

Article 6

(a) The Agency shall, in implementing safeguards pursuant to this Agreement, take full account of technological developments in the field of safeguards, and shall make every effort to ensure optimum cost-effectiveness and the application of the principle of safeguarding effectively the flow of nuclear material subject to safeguards under this Agreement by use of instruments and other techniques at certain strategic points to the extent that present or future technology permits.

(b) In order to ensure optimum cost-effectiveness, use shall be made, for example, of such means as:

(i) containment as a means of defining material balance areas for accounting purposes;

(ii) statistical techniques and random sampling in evaluating the flow of nuclear material; and

(iii) concentration of verification procedures on those stages in the nuclear fuel cycle involving the production, processing, use or storage of nuclear material from which nuclear weapons or other nuclear explosive devices could readily be made, and minimization of verification procedures in respect of other nuclear material, on condition that this does not hamper the Agency in applying safeguards under this Agreement.

NATIONAL SYSTEM OF MATERIALS CONTROL

Article 7

(a) The Democratic People's Republic of Korea shall establish and maintain a system of accounting for and control of all nuclear material subject to safeguards under this Agreement.

(b) The Agency shall apply safeguards in such a manner as to enable it to verify, in ascertaining that there has been no diversion of nuclear material from peaceful uses to nuclear weapons or other nuclear explosive devices, findings of the Democratic People's Republic of Korea's system. The Agency's verification shall include, inter alia, independent measurements and observations conducted by the Agency in accordance with the procedures specified in Part II of this Agreement. The Agency, in its verification, shall take due account of the technical effectiveness of the Democratic People's Republic of Korea's system.

PROVISION OF INFORMATION TO THE AGENCY

Article 8

(a) In order to ensure the effective implementation of safeguards under this Agreement, the Democratic People's Republic of Korea shall, in accordance with the provisions set out in Part II of this Agreement, provide the Agency with information concerning nuclear material subject to safeguards under this Agreement and the features of facilities relevant to safeguarding such material.

(b) (i) The Agency shall require only the minimum amount of information and data consistent with carrying out its responsibilities under this Agreement.

(ii) Information pertaining to facilities shall be the minimum necessary for safeguarding nuclear material subject to safeguards under this Agreement.

(c) If the Democratic People's Republic of Korea so requests, the Agency shall be prepared to examine on premises of the Democratic People's Republic of Korea design information which the Democratic People's Republic of Korea regards as being of particular sensitivity. Such information need not be physically transmitted to the Agency provided that it remains readily available for further examination by the Agency on premises of the Democratic People's Republic of Korea.

AGENCY INSPECTORS

Article 9

(a) (i) The Agency shall secure the consent of the Democratic People's Republic of Korea to the designation of Agency inspectors to the Democratic People's Republic of Korea.

(ii) If the Democratic People's Republic of Korea, either upon proposal of a designation or at any other time after a designation has been made, objects to the designation, the Agency shall secure the consent of the Democratic People's Republic of Korea to an alternative designation or designations.

(iii) If, as a result of the repeated refusal of the Democratic People's Republic of Korea to accept the designation of Agency inspectors, inspections to be conducted under this Agreement would be impeded, such refusal shall be considered by the Board, upon referral by the Director General of the Agency (hereinafter referred to as "the Director General"), with a view to its taking appropriate action.

(b) The Democratic People's Republic of Korea shall take the necessary steps to ensure that Agency inspectors can effectively discharge their functions under this Agreement. The Agency shall, as far as compatible with the other terms of this Agreement, respect legal procedures and regulations of the Democratic People's Republic relevant to such steps.

(c) The visits and activities of Agency inspectors shall be so arranged as:

(i) to reduce to a minimum the possible inconvenience and disturbance to the Democratic People's Republic of Korea and to the peaceful nuclear activities inspected; and

(ii) to ensure protection of industrial secrets or any other confidential information coming to the inspectors' knowledge.

PRIVILEGES AND IMMUNITIES

Article 10

The Democratic People's Republic of Korea shall accord to the Agency (including its property, funds and assets) and to its inspectors and other officials, performing functions under this Agreement, the same privileges and immunities as those set forth in the relevant provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency.*

TERMINATION OF SAFEGUARDS

Article 11

Consumption or dilution of nuclear material

Safeguards shall terminate on nuclear material upon determination by the Agency that the material has been consumed, or has been diluted in such a way that it is no longer usable for any nuclear activity relevant from the point of view of safeguards, or has become practicably irrecoverable.

Article 12

Transfer of nuclear material out of the Democratic People's Republic of Korea

The Democratic People's Republic of Korea shall give the Agency advance notification of intended transfers of nuclear material subject to safeguards under this Agreement out of the Democratic People's Republic of Korea, in accordance with the provisions set out in Part II of this Agreement. The Agency shall terminate safeguards on nuclear material under this Agreement when the recipient State has assumed responsibility therefor, as provided for in Part II of this Agreement. The Agency shall maintain records indicating each transfer and, where applicable, the re-application of safeguards to the transferred nuclear material.

* INFCIRC/9/Rev.2

Article 13

Provisions relating to nuclear material to be used in non-nuclear activities

Where nuclear material subject to safeguards under this Agreement is to be used in non-nuclear activities, such as the production of alloys or ceramics, the Democratic People's Republic of Korea shall agree with the Agency, before the material is so used, on the circumstances under which the safeguards on such material may be terminated.

NON-APPLICATION OF SAFEGUARDS TO NUCLEAR MATERIAL TO BE USED IN NON-PEACEFUL ACTIVITIES

Article 14

If the Democratic People's Republic of Korea intends to exercise its discretion to use nuclear material which is required to be safeguarded under this Agreement in a nuclear activity which does not require the application of safeguards under this Agreement, the following procedures shall apply:

(a) the Democratic People's Republic of Korea shall inform the Agency of the activity, making it clear:

(i) that the use of the nuclear material in a non-proscribed military activity will not be in conflict with an undertaking the Democratic People's Republic of Korea may have given and in respect of which Agency safeguards apply, that the material will be used only in a peaceful nuclear activity; and

(ii) that during the period of non-application of safeguards the nuclear material will not be used for the production of nuclear weapons or other nuclear explosive devices;

(b) the Democratic People's Republic of Korea and the Agency shall make an arrangement so that, only while the nuclear material is in such an activity, the safeguards provided for in this Agreement will not be applied. The arrangement shall identify, to the extent possible, the period or circumstances during which safeguards will not be applied. In any event, the safeguards provided for in this Agreement shall apply again as soon as the nuclear material is reintroduced into a peaceful nuclear activity. The Agency shall be kept informed of the total quantity and composition of such unsafeguarded material in the Democratic People's Republic of Korea and of any export of such material; and

(c) each arrangement shall be made in agreement with the Agency. Such agreement shall be given as promptly as possible and shall relate only to such matters as, inter

alia, temporal and procedural provisions and reporting arrangements, but shall not involve any approval or classified knowledge of the military activity or relate to the use of the nuclear material therein.

FINANCE

Article 15

The Democratic People's Republic of Korea and the Agency will bear the expenses incurred by them in implementing their respective responsibilities under this Agreement. However, if the Democratic People's Republic of Korea or persons under its jurisdiction incur extraordinary expenses as a result of a specific request by the Agency, the Agency shall reimburse such expenses provided that it has agreed in advance to do so. In any case the Agency shall bear the cost of any additional measuring or sampling which inspectors may request.

THIRD PARTY LIABILITY FOR NUCLEAR DAMAGE

Article 16

The Democratic People's Republic of Korea shall ensure that any protection against third party liability in respect of nuclear damage, including any insurance or other financial security, which may be available under its laws or regulations shall apply to the Agency and its officials for the purpose of the implementation of this Agreement, in the same way as that protection applies to nationals of the Democratic People's Republic of Korea.

INTERNATIONAL RESPONSIBILITY

Article 17

Any claim by the Democratic People's Republic of Korea against the Agency or by the Agency against the Democratic People's Republic of Korea in respect of any damage resulting from the implementation of safeguards under this Agreement, other than damage arising out of a nuclear incident, shall be settled in accordance with international law.

MEASURES IN RELATION TO VERIFICATION OF NON-DIVERSION

Article 18

If the Board, upon report of the Director General, decides that an action by the Democratic People's Republic of Korea is essential and urgent in order to ensure verification that nuclear material subject to safeguards under this Agreement is not diverted to nuclear weapons or other nuclear explosive devices, the Board may call upon the Democratic People's Republic of Korea to take the required action without delay, irrespective of whether procedures have been invoked pursuant to Article 22 of this Agreement for the settlement of a dispute.

Article 19

If the Board, upon examination of relevant information reported to it by the Director General, finds that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded under this Agreement to nuclear weapons or other nuclear explosive devices, it may make the reports provided for in paragraph C of Article XII of the Statute of the Agency (hereinafter referred to as "the Statute") and may also take, where applicable, the other measures provided for in that paragraph. In taking such action the Board shall take account of the degree of assurance provided by the safeguards measures that have been applied and shall afford the Democratic People's Republic of Korea every reasonable opportunity to furnish the Board with any necessary reassurance.

INTERPRETATION AND APPLICATION OF THE AGREEMENT AND SETTLEMENT OF DISPUTES

Article 20

The Democratic People's Republic of Korea and the Agency shall, at the request of either, consult about any question arising out of the interpretation or application of this Agreement.

Article 21

The Democratic People's Republic of Korea shall have the right to request that any question arising out of the interpretation or application of this Agreement be considered by the Board. The Board shall invite the Democratic People's Republic of Korea to participate in the discussion of any such question by the Board.

Article 22

Any dispute arising out of the interpretation or application of this Agreement, except a dispute with regard to a finding by the Board under Article 19 or an action taken by the Board pursuant to such a finding, which is not settled by negotiation or another procedure agreed to by the Democratic People's Republic of Korea and the Agency shall, at the request of either, be submitted to an arbitral tribunal composed as follows: the Democratic People's Republic of Korea and the Agency shall each designate one arbitrator, and the two arbitrators so designated shall elect a third, who shall be the Chairman. If, within thirty days of the request for arbitration, either the Democratic People's Republic of Korea or the Agency has not designated an arbitrator, either the Democratic People's Republic of Korea or the Agency may request the President of the International Court of Justice to appoint an arbitrator. The same procedure shall apply if, within thirty days of the designation or appointment of the second arbitrator, the third arbitrator has not been elected. A majority of the members of the arbitral tribunal shall constitute a quorum, and all decisions shall require the concurrence of two arbitrators. The arbitral procedure shall be fixed by the tribunal. The decisions of the tribunal shall be binding on the Democratic People's Republic of Korea and the Agency.

SUSPENSION OF APPLICATION OF AGENCY SAFEGUARDS
UNDER OTHER AGREEMENTS

Article 23

The application of Agency safeguards in the Democratic People's Republic of Korea under other safeguards agreements with the Agency shall be suspended while this Agreement is in force. If the Democratic People's Republic of Korea has received assistance from the Agency for a project, the Democratic People's Republic of Korea's undertaking in the Project Agreement not to use items which are subject thereto in such a way as to further any military purpose shall continue to apply.

AMENDMENT OF THE AGREEMENT

Article 24

(a) The Democratic People's Republic of Korea and the Agency shall, at the request of either, consult each other on amendment to this Agreement.

(b) All amendments shall require the agreement of the Democratic People's Republic of Korea and the Agency.

(c) Amendments to this Agreement shall enter into force in the same conditions as entry into force of the Agreement itself.

(d) The Director General shall promptly inform all Member States of the Agency of any amendment to this Agreement.

ENTRY INTO FORCE AND DURATION

Article 25

This Agreement shall enter into force on the date upon which the Agency receives from the Democratic People's Republic of Korea written notification that the Democratic People's Republic of Korea's statutory and constitutional requirements for entry into force have been met. The Director General shall promptly inform all Member States of the Agency of the entry into force of this Agreement.

Article 26

This Agreement shall remain in force as long as the Democratic People's Republic of Korea is party to the Treaty.

PART II

INTRODUCTION

Article 27

The purpose of this part of the Agreement is to specify the procedures to be applied in the implementation of the safeguards provisions of Part I.

OBJECTIVE OF SAFEGUARDS

Article 28

The objective of the safeguards procedures set forth in this part of the Agreement is the timely detection of diversion of significant quantities of nuclear material from peaceful nuclear activities to the manufacture of nuclear weapons or of other nuclear explosive devices or for purposes unknown, and deterrence of such diversion by the risk of early detection.

Article 29

For the purpose of achieving the objective set forth in Article 28, material accountancy shall be used as a safeguards measure of fundamental importance, with containment and surveillance as important complementary measures.

Article 30

The technical conclusion of the Agency's verification activities shall be a statement, in respect of each material balance area, of the amount of material unaccounted for over a specific period, and giving the limits of accuracy of the amounts stated.

NATIONAL SYSTEM OF ACCOUNTING FOR AND CONTROL OF NUCLEAR MATERIAL

Article 31

Pursuant to Article 7 the Agency, in carrying out its verification activities, shall make full use of the Democratic People's Republic of Korea's system of accounting for and control of all nuclear material subject to safeguards under this Agreement and shall avoid unnecessary duplication of the Democratic People's Republic of Korea's accounting and control activities.

Article 32

The Democratic People's Republic of Korea's system of accounting for and control of all nuclear material subject to safeguards under this Agreement shall be based on a structure of material balance areas, and shall make provision, as appropriate and specified in the Subsidiary Arrangements, for the establishment of such measures as:

(a) a measurement system for the determination of the quantities of nuclear material received, produced, shipped, lost or otherwise removed from inventory, and the quantities on inventory;

(b) the evaluation of precision and accuracy of measurements and the estimation of measurement uncertainty;

(c) procedures for identifying, reviewing and evaluating differences in shipper/receiver measurements;

(d) procedures for taking a physical inventory;

(e) procedures for the evaluation of accumulations of unmeasured inventory and unmeasured losses;

(f) a system of records and reports showing, for each material balance area, the inventory of nuclear material and the changes in that inventory including receipts into and transfers out of the material balance area;

(g) provisions to ensure that the accounting procedures and arrangements are being operated correctly; and

(h) procedures for the provision of reports to the Agency in accordance with Articles 59-69.

STARTING POINT OF SAFEGUARDS

Article 33

Safeguards under this Agreement shall not apply to material in mining or ore processing activities.

Article 34

(a) When any material containing uranium or thorium which has not reached the stage of the nuclear fuel cycle described in paragraph (c) is directly or indirectly exported to a non-nuclear-weapon State, the Democratic People's Republic of Korea shall inform the Agency of its quantity, composition and destination, unless the material is exported for specifically non-nuclear purposes;

(b) When any material containing uranium or thorium which has not reached the stage of the nuclear fuel cycle described in paragraph (c) is imported, the Democratic People's Republic of Korea shall inform the Agency of its quantity and composition, unless the material is imported for specifically non-nuclear purposes; and

(c) When any nuclear material of a composition and purity suitable for fuel fabrication or for isotopic enrichment leaves the plant or the process stage in which it has been produced, or when such nuclear material, or any other nuclear material produced at a later stage in the nuclear fuel cycle, is imported into the Democratic People's Republic of Korea, the nuclear material shall become subject to the other safeguards procedures specified in this Agreement.

TERMINATION OF SAFEGUARDS

Article 35

(a) Safeguards shall terminate on nuclear material subject to safeguards under this Agreement, under the conditions set forth in Article 11. Where the conditions of that Article are not met, but the Democratic People's Republic of Korea considers that the recovery of safeguarded nuclear material from residues is not for the time being practicable or desirable, the Democratic People's Republic of Korea and the Agency shall consult on the appropriate safeguards measures to be applied.

(b) Safeguards shall terminate on nuclear material subject to safeguards under this Agreement, under the conditions set forth in Article 13, provided that the Democratic People's Republic of Korea and the Agency agree that such nuclear material is practicably irrecoverable.

EXEMPTIONS FROM SAFEGUARDS

Article 36

At the request of the Democratic People's Republic of Korea, the Agency shall exempt nuclear material from safeguards, as follows:

(a) special fissionable material, when it is used in gram quantities or less as a sensing component in instruments;

(b) nuclear material, when it is used in non-nuclear activities in accordance with Article 13, if such nuclear material is recoverable; and

(c) plutonium with an isotopic concentration of plutonium-238 exceeding 80%.

Article 37

At the request of the Democratic People's Republic of Korea the Agency shall exempt from safeguards nuclear material that would otherwise be subject to safeguards, provided that the total quantity of nuclear material which has been exempted in the Democratic People's Republic of Korea in accordance with this Article may not at any time exceed:

(a) one kilogram in total of special fissionable material, which may consist of one or more of the following:

(i) plutonium;

(ii) uranium with an enrichment of 0.2 (20%) and above, taken account of by multiplying its weight by its enrichment; and

(iii) uranium with an enrichment below 0.2 (20%) and above that of natural uranium, taken account of by multiplying its weight by five times the square of its enrichment;

(b) ten metric tons in total of natural uranium and depleted uranium with an enrichment above 0.005 (0.5%);

(c) twenty metric tons of depleted uranium with an enrichment of 0.005 (0.5%) or below; and

(d) twenty metric tons of thorium;

or such greater amounts as may be specified by the Board for uniform application.

Article 38

If exempted nuclear material is to be processed or stored together with nuclear material subject to safeguards under this Agreement, provision shall be made for the re-application of safeguards thereto.

SUBSIDIARY ARRANGEMENTS

Article 39

The Democratic People's Republic of Korea and the Agency shall make Subsidiary Arrangements which shall specify in detail, to the extent necessary to permit the Agency to fulfil its responsibilities under this Agreement in an effective and efficient manner, how the procedures laid down in this Agreement are to be applied. The Subsidiary Arrangements may be extended or changed by agreement between the Democratic People's Republic of Korea and the Agency without amendment of this Agreement.

Article 40

The Subsidiary Arrangements shall enter into force at the same time as, or as soon as possible after, the entry into force of this Agreement. The Democratic People's Republic of Korea and the Agency shall make every effort to achieve their entry into force within ninety days of the entry into force of this Agreement; an extension of that period shall require agreement between the Democratic People's Republic of Korea and the Agency. The Democratic People's Republic of Korea shall provide the Agency promptly with the information required for completing the Subsidiary Arrangements. Upon the entry into force of this Agreement, the Agency shall have the right to apply the procedures laid down therein in respect of the nuclear material listed in the inventory provided for in Article 41, even if the Subsidiary Arrangements have not yet entered into force.

INVENTORY

Article 41

On the basis of the initial report referred to in Article 62, the Agency shall establish a unified inventory of all nuclear material in the Democratic People's Republic of Korea subject to safeguards under this Agreement, irrespective of its origin, and shall maintain this inventory on the basis of subsequent reports and of the results of its verification activities. Copies of the inventory shall be made available to the Democratic People's Republic of Korea at intervals to be agreed.

DESIGN INFORMATION

General provisions

Article 42

Pursuant to Article 8, design information in respect of existing facilities shall be provided to the Agency during the discussion of the Subsidiary Arrangements. The time limits for the provision of design information in respect of the new facilities shall be specified in the Subsidiary Arrangements and such information shall be provided as early as possible before nuclear material is introduced into a new facility.

Article 43

The design information to be provided to the Agency shall include, in respect of each facility, when applicable:

(a) the identification of the facility, stating its general character, purpose, nominal capacity and geographic location, and the name and address to be used for routine business purposes;

(b) a description of the general arrangement of the facility with reference, to the extent feasible, to the form, location and flow of nuclear material and to the general layout of important items of equipment which use, produce or process nuclear material;

(c) a description of features of the facility relating to material accountancy, containment and surveillance; and

(d) a description of the existing and proposed procedures at the facility for nuclear material accountancy and control, with special reference to material balance areas established by the operator, measurements of flow and procedures for physical inventory taking.

Article 44

Other information relevant to the application of safeguards shall also be provided to the Agency in respect of each facility, in particular on organizational responsibility for material accountancy and control. The Democratic People's Republic of Korea shall provide the Agency with supplementary information on the health and safety procedures which the Agency shall observe and with which the inspectors shall comply at the facility.

Article 45

The Agency shall be provided with design information in respect of a modification relevant for safeguards purposes, for examination, and shall be informed of any change in the information provided to it under Article 44, sufficiently in advance for the safeguards procedures to be adjusted when necessary.

Article 46

Purposes of examination of design information

The design information provided to the Agency shall be used for the following purposes:

(a) to identify the features of facilities and nuclear material relevant to the application of safeguards to nuclear material in sufficient detail to facilitate verification;

(b) to determine material balance areas to be used for Agency accounting purposes and to select those strategic points which are key measurement points and which will be used to determine flow and inventory of nuclear material; in determining such material balance areas the Agency shall, inter alia, use the following criteria:

(i) the size of the material balance area shall be related to the accuracy with which the material balance can be established;

(ii) in determining the material balance area advantage shall be taken of any opportunity to use containment and surveillance to help ensure the completeness of flow measurements and thereby to simplify the application of safeguards and to concentrate measurement efforts at key measurement points;

(iii) a number of material balance areas in use at a facility or at distinct sites may be combined in one material balance area to be used for Agency accounting purposes when the Agency determines that this is consistent with its verification requirements; and

(iv) a special material balance area may be established at the request of the Democratic People's Republic of Korea around a process step involving commercially sensitive information;

(c) to establish the nominal timing and procedures for taking of physical inventory of nuclear material for Agency accounting purposes;

(d) to establish the records and reports requirements and records evaluation procedures;

(e) to establish requirements and procedures for verification of the quantity and location of nuclear material; and

(f) to select appropriate combinations of containment and surveillance methods and techniques and the strategic points at which they are to be applied.

The results of the examination of the design information shall be included in the Subsidiary Arrangements.

Article 47

Re-examination of design information

Design information shall be re-examined in the light of changes in operating conditions, of developments in safeguards technology or of experience in the application of verification procedures, with a view to modifying the action the Agency has taken pursuant to Article 46.

Article 48

Verification of design information

The Agency, in co-operation with the Democratic People's Republic of Korea, may send inspectors to facilities to verify the design information provided to the Agency pursuant to Articles 42-45, for the purposes stated in Article 46.

INFORMATION IN RESPECT OF NUCLEAR MATERIAL OUTSIDE FACILITIES

Article 49

The Agency shall be provided with the following information when nuclear material is to be customarily used outside facilities, as applicable:

(a) a general description of the use of the nuclear material, its geographic location, and the user's name and address for routine business purposes; and

(b) a general description of the existing and proposed procedures for nuclear material accountancy and control, including organizational responsibility for material accountancy and control.

The Agency shall be informed, on a timely basis, of any change in the information provided to it under this Article.

Article 50

The information provided to the Agency pursuant to Article 49 may be used, to the extent relevant, for the purposes set out in Article 46(b)-(f).

RECORDS SYSTEM

General provisions

Article 51

In establishing its system of materials control as referred to in Article 7, the Democratic People's Republic of Korea shall arrange that records are kept in respect of each material balance area. The records to be kept shall be described in the Subsidiary Arrangements.

Article 52

The Democratic People's Republic of Korea shall make arrangements to facilitate the examination of records by inspectors, particularly if the records are not kept in English, French, Russian or Spanish.

Article 53

Records shall be retained for at least five years.

Article 54

Records shall consist, as appropriate, of:

(a) accounting records of all nuclear material subject to safeguards under this Agreement; and

(b) operating records for facilities containing such nuclear material.

Article 55

The system of measurements on which the records used for the preparation of reports are based shall either conform to the latest international standards or be equivalent in quality to such standards.

Accounting records

Article 56

The accounting records shall set forth the following in respect of each material balance area:

(a) all inventory changes, so as to permit a determination of the book inventory at any time;

(b) all measurement results that are used for determination of the physical inventory; and

(c) all adjustments and corrections that have been made in respect of inventory changes, book inventories and physical inventories.

Article 57

For all inventory changes and physical inventories the records shall show, in respect of each batch of nuclear material: material identification, batch data and source data. The records shall account for uranium, thorium and plutonium separately in each batch of nuclear material. For each inventory change, the date of the inventory change and, when appropriate, the originating material balance area and the receiving material balance area or the recipient, shall be indicated.

Article 58

Operating records

The operating records shall set forth, as appropriate, in respect of each material balance area:

(a) those operating data which are used to establish changes in the quantities and composition of nuclear material;

(b) the data obtained from the calibration of tanks and instruments and from sampling and analyses, the procedures to control the quality of measurements and the derived estimates of random and systematic error;

(c) a description of the sequence of the actions taken in preparing for, and in taking, a physical inventory, in order to ensure that it is correct and complete; and

(d) a description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might occur.

REPORTS SYSTEM

General provisions

Article 59

The Democratic People's Republic of Korea shall provide the Agency with reports as detailed in Articles 60-69 in respect of nuclear material subject to safeguards under this Agreement.

Article 60

Reports shall be made in English, French, Russian or Spanish, except as otherwise specified in the Subsidiary Arrangements.

Article 61

Reports shall be based on the records kept in accordance with Articles 51-58 and shall consist, as appropriate, of accounting reports and special reports.

Accounting reports

Article 62

The Agency shall be provided with an initial report on all nuclear material subject to safeguards under this Agreement. The initial report shall be dispatched by the Democratic People's Republic of Korea to the Agency within thirty days of the last day of the calendar month in which this Agreement enters into force, and shall reflect the situation as of the last day of that month.

Article 63

The Democratic People's Republic of Korea shall provide the Agency with the following accounting reports for each material balance area:

(a) inventory change reports showing all changes in the inventory of nuclear material. The reports shall be dispatched as soon as possible and in any event within thirty days after the end of the month in which the inventory changes occurred or were established; and

(b) material balance reports showing the material balance based on a physical inventory of nuclear material actually present in the material balance area. The reports shall be dispatched as soon as possible and in any event within thirty days after the physical inventory has been taken.

The reports shall be based on data available as of the date of reporting and may be corrected at a later date, as required.

Article 64

Inventory change reports shall specify identification and batch data for each batch of nuclear material, the date of the inventory change and, as appropriate, the originating material balance area and the receiving material balance area or the recipient. These reports shall be accompanied by concise notes:

(a) explaining the inventory changes, on the basis of the operating data contained in the operating records provided for under Article 58(a); and

(b) describing, as specified in the Subsidiary Arrangements, the anticipated operational programme, particularly the taking of a physical inventory.

Article 65

The Democratic People's Republic of Korea shall report each inventory change, adjustment and correction, either periodically in a consolidated list or individually. Inventory changes shall be reported in terms of batches. As specified in the Subsidiary Arrangements, small changes in inventory of nuclear material, such as transfers of analytical samples, may be combined in one batch and reported as one inventory change.

Article 66

The Agency shall provide the Democratic People's Republic of Korea with semi-annual statements of book inventory of nuclear material subject to safeguards under this Agreement, for each material balance area, as based on the inventory change reports for the period covered by each such statement.

Article 67

Material balance reports shall include the following entries, unless otherwise agreed by the Democratic People's Republic of Korea and the Agency:

(a) beginning physical inventory;

(b) inventory changes (first increases, then decreases);

(c) ending book inventory;

(d) shipper/receiver differences;

(e) adjusted ending book inventory;

(f) ending physical inventory; and

(g) material unaccounted for.

A statement of the physical inventory, listing all batches separately and specifying material identification and batch data for each batch, shall be attached to each material balance report.

Article 68

Special reports

The Democratic People's Republic of Korea shall make special reports without delay:

(a) if any unusual incident or circumstances lead the Democratic People's Republic of Korea to believe that there is or may have been loss of nuclear material that exceeds the limits specified for this purpose in the Subsidiary Arrangements; or

(b) if the containment has unexpectedly changed from that specified in the Subsidiary Arrangements to the extent that unauthorized removal of nuclear material has become possible.

Article 69

Amplification and clarification of reports

If the Agency so requests, the Democratic People's Republic of Korea shall provide it with amplifications or clarifications of any report, in so far as relevant for the purpose of safeguards.

INSPECTIONS

Article 70

General provisions

The Agency shall have the right to make inspections as provided for in Articles 71-82.

Purposes of inspections

Article 71

The Agency may make ad hoc inspections in order to:

(a) verify the information contained in the initial report on the nuclear material subject to safeguards under this Agreement;

(b) identify and verify changes in the situation which have occurred since the date of the initial report; and

(c) identify, and if possible verify the quantity and composition of, nuclear material in accordance with Articles 93 and 96, before its transfer out of or upon its transfer into the Democratic People's Republic of Korea.

Article 72

The Agency may make routine inspections in order to:

(a) verify that reports are consistent with records;

(b) verify the location, identity, quantity and composition of all nuclear material subject to safeguards under this Agreement; and

(c) verify information on the possible causes of material unaccounted for, shipper/receiver differences and uncertainties in the book inventory.

Article 73

Subject to the procedures laid down in Article 77, the Agency may make special inspections:

(a) in order to verify the information contained in special reports; or

(b) if the Agency considers that information made available by the Democratic People's Republic of Korea, including explanations from the Democratic People's Republic of Korea and information obtained from routine inspections, is not adequate for the Agency to fulfil its responsibilities under this Agreement.

An inspection shall be deemed to be special when it is either additional to the routine inspection effort provided for in Articles 78-82 or involves access to information or locations in addition to the access specified in Article 76 for ad hoc and routine inspections, or both.

Scope of inspections

Article 74

For the purposes specified in Articles 71-73, the Agency may:

(a) examine the records kept pursuant to Articles 51-58;

(b) make independent measurements of all nuclear material subject to safeguards under this Agreement;

(c) verify the functioning and calibration of instruments and other measuring and control equipment;

(d) apply and make use of surveillance and containment measures; and

(e) use other objective methods which have been demonstrated to be technically feasible.

Article 75

Within the scope of Article 74, the Agency shall be enabled:

(a) to observe that samples at key measurement points for material balance accountancy are taken in accordance with procedures which produce representative samples, to observe the treatment and analysis of the samples and to obtain duplicates of such samples;

(b) to observe that the measurements of nuclear material at key measurement points for material balance accountancy are representative, and to observe the calibration of the instruments and equipment involved;

(c) to make arrangements with the Democratic People's Republic of Korea that, if necessary:

(i) additional measurements are made and additional samples taken for the Agency's use;

(ii) the Agency's standard analytical samples are analysed;

(iii) appropriate absolute standards are used in calibrating instruments and other equipment; and

(iv) other calibrations are carried out;

(d) to arrange to use its own equipment for independent measurement and surveillance, and if so agreed and specified in the Subsidiary Arrangements, to arrange to install such equipment;

(e) to apply its seals and other identifying and tamper-indicating devices to containments, if so agreed and specified in the Subsidiary Arrangements; and

(f) to make arrangements with the Democratic People's Republic of Korea for the shipping of samples taken for the Agency's use.

Access for inspections

Article 76

(a) For the purposes specified in Article 71(a) and (b) and until such time as the strategic points have been specified in the Subsidiary Arrangements, the Agency inspectors shall have access to any location where the initial report or any inspections carried out in connection with it indicate that nuclear material is present;

(b) For the purposes specified in Article 71(c) the inspectors shall have access to any location of which the Agency has been notified in accordance with Articles 92(d)(iii) or 95(d)(iii);

(c) For the purposes specified in Article 72 the inspectors shall have access only to the strategic points specified in the Subsidiary Arrangements and to the records maintained pursuant to Articles 51-58; and

(d) In the event of the Democratic People's Republic of Korea concluding that any unusual circumstances require extended limitations on access by the Agency, the Democratic People's Republic of Korea and the Agency shall promptly make arrangements with a view to enabling the Agency to discharge its safeguards responsibilities in the light of these limitations. The Director General shall report each such arrangement to the Board.

Article 77

In circumstances which may lead to special inspections for the purposes specified in Article 73 the Democratic People's Republic of Korea and the Agency shall consult forthwith. As a result of such consultations the Agency may:

(a) make inspections in addition to the routine inspection effort provided for in Articles 78-82; and

(b) obtain access, in agreement with the Democratic People's Republic of Korea, to information or locations in addition to those specified in Article 76. Any disagreement concerning the need for additional access shall be resolved in accordance with Articles 21 and 22; in case action by the Democratic People's Republic of Korea is essential and urgent, Article 18 shall apply.

Frequency and intensity of routine inspections

Article 78

The Agency shall keep the number, intensity and duration of routine inspections, applying optimum timing, to the minimum consistent with the effective implementation of the safeguards procedures set forth in this Agreement, and shall make the optimum and most economical use of inspection resources available to it.

Article 79

The Agency may carry out one routine inspection per year in respect of facilities and material balance areas outside facilities with a content or annual throughput, whichever is greater, of nuclear material not exceeding five effective kilograms.

Article 80

The number, intensity, duration, timing and mode of routine inspections in respect of facilities with a content or annual throughput of nuclear material exceeding five effective kilograms shall be determined on the basis that in the maximum or limiting case the inspection regime shall be no more intensive than is necessary and sufficient to maintain continuity of knowledge of the flow and inventory of nuclear material, and the maximum routine inspection effort in respect of such facilities shall be determined as follows:

(a) for reactors and sealed storage installations the maximum total of routine inspection per year shall be determined by allowing one sixth of a man-year of inspection for each such facility;

(b) for facilities, other than reactors or sealed storage installations, involving plutonium or uranium enriched to more than 5%, the maximum total of routine inspection per year shall be determined by allowing for each such facility $30 \times \sqrt{E}$ man-days of inspection per year, where E is the inventory or annual throughput of nuclear material, whichever is greater, expressed in effective kilograms. The maximum established for any such facility shall not, however, be less than 1.5 man-years of inspection; and

(c) for facilities not covered by paragraphs (a) or (b), the maximum total of routine inspection per year shall be determined by allowing for each such facility one third of a man-year of inspection plus $0.4 \times E$ man-days of inspection per year, where E is the inventory or annual throughput of nuclear material, whichever is greater, expressed in effective kilograms.

The Democratic People's Republic of Korea and the Agency may agree to amend the figures for the maximum inspection effort specified in this Article, upon determination by the Board that such amendment is reasonable.

Article 81

Subject to Articles 78-80 the criteria to be used for determining the actual number, intensity, duration, timing and mode of routine inspections in respect of any facility shall include:

(a) the form of the nuclear material, in particular, whether the nuclear material is in bulk form or contained in a number of separate items; its chemical composition and, in the case of uranium, whether it is of low or high enrichment; and its accessibility;

(b) the effectiveness of the Democratic People's Republic of Korea's accounting and control system, including the extent to which the operators of facilities are functionally independent of the Democratic People's Republic of Korea's accounting and control system; the extent to which the measures specified in Article 32 have been implemented by the Democratic People's Republic of Korea; the promptness of reports provided to the Agency; their consistency with the Agency's independent verification; and the amount and accuracy of the material unaccounted for, as verified by the Agency;

(c) characteristics of the Democratic People's Republic of Korea's nuclear fuel cycle, in particular, the number and types of facilities containing nuclear material subject to safeguards, the characteristics of such facilities relevant to safeguards, notably the degree of containment; the extent to which the design of such facilities facilitates verification of the flow and inventory of nuclear material; and the extent to which information from different material balance areas can be correlated;

(d) international interdependence, in particular, the extent to which nuclear material is received from or sent to other States for use or processing; any verification activities by the Agency in connection therewith; and the extent to which the Democratic People's Republic of Korea's nuclear activities are interrelated with those of other States; and

(e) technical developments in the field of safeguards, including the use of statistical techniques and random sampling in evaluating the flow of nuclear material.

Article 82

The Democratic People's Republic of Korea and the Agency shall consult if the Democratic People's Republic of Korea considers that the inspection effort is being deployed with undue concentration on particular facilities.

Notice of inspections

Article 83

The Agency shall give advance notice to the Democratic People's Republic of Korea before arrival of inspectors at facilities or material balance areas outside facilities, as follows:

(a) for ad hoc inspections pursuant to Article 71(c), at least 24 hours; for those pursuant to Article 71(a) and (b) as well as the activities provided for in Article 48, at least one week;

(b) for special inspections pursuant to Article 73, as promptly as possible after the Democratic People's Republic of Korea and the Agency have consulted as provided for in Article 77, it being understood that notification of arrival normally will constitute part of the consultations; and

(c) for routine inspections pursuant to Article 72, at least 24 hours in respect of the facilities referred to in Article 80(b) and sealed storage installations containing plutonium or uranium enriched to more than 5%, and one week in all other cases.

Such notice of inspections shall include the names of the inspectors and shall indicate the facilities and the material balance areas outside facilities to be visited and the periods during which they will be visited. If the inspectors are to arrive from outside the Democratic People's Republic of Korea the Agency shall also give advance notice of the place and time of their arrival in the Democratic People's Republic of Korea.

Article 84

Notwithstanding the provisions of Article 83, the Agency may, as a supplementary measure, carry out without advance notification a portion of the routine inspections pursuant to Article 80 in accordance with the principle of random sampling. In performing any unannounced inspections, the Agency shall fully take into account any operational programme provided by the Democratic People's Republic of Korea pursuant to Article 64(b). Moreover, whenever practicable, and on the basis of the operational programme, it shall advise the Democratic People's Republic of Korea periodically of its general programme of announced and unannounced inspections, specifying the general periods when inspections are foreseen. In carrying out any unannounced inspections, the Agency shall make every effort to minimize any practical difficulties for the Democratic People's Republic of Korea and for facility operators, bearing in mind the relevant provisions of Articles 44 and 89. Similarly the Democratic People's Republic of Korea shall make every effort to facilitate the task of the inspectors.

Designation of inspectors

Article 85

The following procedures shall apply to the designation of inspectors:

(a) the Director General shall inform the Democratic People's Republic of Korea in writing of the name, qualifications, nationality, grade and such other particulars as may be relevant, of each Agency official he proposes for designation as an inspector for the Democratic People's Republic of Korea;

(b) the Democratic People's Republic of Korea shall inform the Director General within thirty days of the receipt of such a proposal whether it accepts the proposal;

(c) the Director General may designate each official who has been accepted by the Democratic People's Republic of Korea as one of the inspectors for the Democratic People's Republic of Korea, and shall inform the Democratic People's Republic of Korea of such designations; and

(d) the Director General, acting in response to a request by the Democratic People's Republic of Korea or on his own initiative, shall immediately inform the Democratic People's Republic of Korea of the withdrawal of the designation of any official as an inspector for the Democratic People's Republic of Korea.

However, in respect of inspectors needed for the activities provided for in Article 48 and to carry out ad hoc inspections pursuant to Article 71(a) and (b) the designation procedures shall be completed if possible within thirty days after the entry into force of this Agreement. If such designation appears impossible within this time limit, inspectors for such purposes shall be designated on a temporary basis.

Article 86

The Democratic People's Republic of Korea shall grant or renew as quickly as possible appropriate visas, where required, for each inspector designated for the Democratic People's Republic of Korea.

Conduct and visits of inspectors

Article 87

Inspectors, in exercising their functions under Articles 48 and 71-75, shall carry out their activities in a manner designed to avoid hampering or delaying the construction, commissioning or operation of facilities, or affecting their safety. In particular inspectors shall not operate any facility themselves or direct the staff of a facility to carry out any operation. If inspectors consider that in pursuance of Articles 74 and 75, particular operations in a facility should be carried out by the operator, they shall make a request therefor.

Article 88

When inspectors require services available in the Democratic People's Republic of Korea, including the use of equipment, in connection with the performance of inspections, the Democratic People's Republic of Korea shall facilitate the procurement of such services and the use of such equipment by inspectors.

Article 89

The Democratic People's Republic of Korea shall have the right to have inspectors accompanied during their inspections by representatives of the Democratic People's Republic of Korea, provided that inspectors shall not thereby be delayed or otherwise impeded in the exercise of their functions.

STATEMENTS ON THE AGENCY'S VERIFICATION ACTIVITIES

Article 90

The Agency shall inform the Democratic People's Republic of Korea of:

(a) the results of inspections, at intervals to be specified in the Subsidiary Arrangements; and

(b) the conclusions it has drawn from its verification activities in the Democratic People's Republic of Korea, in particular by means of statements in respect of each material balance area, which shall be made as soon as possible after a physical inventory has been taken and verified by the Agency and a material balance has been struck.

INTERNATIONAL TRANSFERS

Article 91

General provisions

Nuclear material subject or required to be subject to safeguards under this Agreement which is transferred internationally shall, for purposes of this Agreement, be regarded as being the responsibility of the Democratic People's Republic of Korea:

(a) in the case of import into the Democratic People's Republic of Korea, from the time that such responsibility ceases to lie with the exporting State, and no later than the time at which the material reaches its destination; and

(b) in the case of export out of the Democratic People's Republic of Korea, up to the time at which the recipient State assumes such responsibility, and no later than the time at which the nuclear material reaches its destination.

The point at which the transfer of responsibility will take place shall be determined in accordance with suitable arrangements to be made by the States concerned. Neither the Democratic People's Republic of Korea nor any other State shall be deemed to have such responsibility for nuclear material merely by reason of the fact that the nuclear material is in transit on or over its territory, or that it is being transported on a ship under its flag or in its aircraft.

Article 92

(a) The Democratic People's Republic of Korea shall notify the Agency of any intended transfer out of the Democratic People's Republic of Korea of nuclear material subject to safeguards under this Agreement if the shipment exceeds one effective kilogram, or if, within a period of three months, several separate shipments are to be made to the same State, each of less than one effective kilogram but the total of which exceeds one effective kilogram.

(b) Such notification shall be given to the Agency after the conclusion of the contractual arrangements leading to the transfer and normally at least two weeks before the nuclear material is to be prepared for shipping.

(c) The Democratic People's Republic of Korea and the Agency may agree on different procedures for advance notification.

(d) The notification shall specify:

(i) the identification and, if possible, the expected quantity and composition of the nuclear material to be transferred, and the material balance area from which it will come;

(ii) the State for which the nuclear material is destined;

(iii) the dates on and locations at which the nuclear material is to be prepared for shipping;

(iv) the approximate dates of dispatch and arrival of the nuclear material; and

(v) at what point of the transfer the recipient State will assume responsibility for the nuclear material for the purpose of this Agreement, and the probable date on which that point will be reached.

Article 93

The notification referred to in Article 92 shall be such as to enable the Agency to make, if necessary, an ad hoc inspection to identify, and if possible verify the quantity and composition of, the nuclear material before it is transferred out of the Democratic People's Republic of Korea and, if the Agency so wishes or the Democratic People's Republic of Korea so requests, to affix seals to the nuclear material when it has been prepared for shipping. However, the transfer of the nuclear material shall not be delayed in any way by any action taken or contemplated by the Agency pursuant to such a notification.

Article 94

If the nuclear material will not be subject to Agency safeguards in the recipient State, the Democratic People's Republic of Korea shall make arrangements for the Agency to receive, within three months of the time when the recipient State accepts responsibility for the nuclear material from the Democratic People's Republic of Korea, confirmation by the recipient State of the transfer.

Transfers into the Democratic People's Republic of Korea

Article 95

(a) The Democratic People's Republic of Korea shall notify the Agency of any expected transfer into the Democratic People's Republic of Korea of nuclear material required to be subject to safeguards under this Agreement if the shipment exceeds one effective kilogram, or if, within a period of three months, several separate shipments are to be received from the same State, each of less than one effective kilogram but the total of which exceeds one effective kilogram.

(b) The Agency shall be notified as much in advance as possible of the expected arrival of the nuclear material, and in any case not later than the date on which the Democratic People's Republic of Korea assumes responsibility for the nuclear material.

(c) The Democratic People's Republic of Korea and the Agency may agree on different procedures for advance notification.

(d) The notification shall specify:

(i) the identification and, if possible, the expected quantity and composition of the nuclear material;

(ii) at what point of the transfer the Democratic People's Republic of Korea will assume responsibility for the nuclear material for the purpose of this Agreement, and the probable date on which that point will be reached; and

(iii) the expected date of arrival, the location where, and the date on which, the nuclear material is intended to be unpacked.

Article 96

The notification referred to in Article 95 shall be such as to enable the Agency to make, if necessary, an ad hoc inspection to identify, and if possible verify the quantity and composition of, the nuclear material at the time the consignment is unpacked. However, unpacking shall not be delayed by any action taken or contemplated by the Agency pursuant to such a notification.

Article 97

Special reports

The Democratic People's Republic of Korea shall make a special report as envisaged in Article 68 if any unusual incident or circumstances lead the Democratic People's Republic of Korea to believe that there is or may have been loss of nuclear material, including the occurrence of significant delay during an international transfer.

DEFINITIONS

Article 98

For the purposes of this Agreement:

A. adjustment means an entry into an accounting record or a report showing a shipper/receiver difference or material unaccounted for.

B. annual throughput means, for the purposes of Articles 79 and 80, the amount of nuclear material transferred annually out of a facility working at nominal capacity.

C. batch means a portion of nuclear material handled as a unit for accounting purposes at a key measurement point and for which the composition and quantity are defined by a single set of specifications or measurements. The nuclear material may be in bulk form or contained in a number of separate items.

D. batch data means the total weight of each element of nuclear material and, in the case of plutonium and uranium, the isotopic composition when appropriate. The units of account shall be as follows:

(a) grams of contained plutonium;

(b) grams of total uranium and grams of contained uranium-235 plus uranium-233 for uranium enriched in these isotopes; and

(c) kilograms of contained thorium, natural uranium or depleted uranium.

For reporting purposes the weights of individual items in the batch shall be added together before rounding to the nearest unit.

E. book inventory of a material balance area means the algebraic sum of the most recent physical inventory of that material balance area and of all inventory changes that have occurred since that physical inventory was taken.

F. correction means an entry into an accounting record or a report to rectify an identified mistake or to reflect an improved measurement of a quantity previously entered into the record or report. Each correction must identify the entry to which it pertains.

G. effective kilogram means a special unit used in safeguarding nuclear material. The quantity in effective kilograms is obtained by taking:

(a) for plutonium, its weight in kilograms;

(b) for uranium with an enrichment of 0.01 (1%) and above, its weight in kilograms multiplied by the square of its enrichment;

(c) for uranium with an enrichment below 0.01 (1%) and above 0.005 (0.5%), its weight in kilograms multiplied by 0.0001; and

(d) for depleted uranium with an enrichment of 0.005 (0.5%) or below, and for thorium, its weight in kilograms multiplied by 0.00005.

H. enrichment means the ratio of the combined weight of the isotopes uranium-233 and uranium-235 to that of the total uranium in question.

I. facility means:

(a) a reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant or a separate storage installation; or

(b) any location where nuclear material in amounts greater than one effective kilogram is customarily used.

J. inventory change means an increase or decrease, in terms of batches, of nuclear material in a material balance area; such a change shall involve one of the following:

(a) increases:

(i) import;

(ii) domestic receipt: receipts from other material balance areas, receipts from a non-safeguarded (non-peaceful) activity or receipts at the starting point of safeguards;

(iii) nuclear production: production of special fissionable material in a reactor; and

(iv) de-exemption: re-application of safeguards on nuclear material previously exempted therefrom on account of its use or quantity.

(b) decreases:

(i) export;

(ii) domestic shipment: shipments to other material balance areas or shipments for a non-safeguarded (non-peaceful) activity;

(iii) nuclear loss: loss of nuclear material due to its transformation into other element(s) or isotope(s) as a result of nuclear reactions;

(iv) measured discard: nuclear material which has been measured, or estimated on the basis of measurements, and disposed of in such a way that it is not suitable for further nuclear use;

(v) retained waste: nuclear material generated from processing or from an operational accident, which is deemed to be unrecoverable for the time being but which is stored;

(vi) exemption: exemption of nuclear material from safeguards on account of its use or quantity; and

(vii) other loss: for example, accidental loss (that is, irretrievable and inadvertent loss of nuclear material as the result of an operational accident) or theft.

K. key measurement point means a location where nuclear material appears in such a form that it may be measured to determine material flow or inventory. Key measurement points thus include, but are not limited to, the inputs and outputs (including measured discards) and storages in material balance areas.

L. man-year of inspection means, for the purposes of Article 80, 300 man-days of inspection, a man-day being a day during which a single inspector has access to a facility at any time for a total of not more than eight hours.

M. material balance area means an area in or outside of a facility such that:

(a) The quantity of nuclear material in each transfer into or out of each material balance area can be determined; and

(b) The physical inventory of nuclear material in each material balance area can be determined when necessary, in accordance with specified procedures,

in order that the material balance for Agency safeguards purposes can be established.

N. material unaccounted for means the difference between book inventory and physical inventory.

O. nuclear material means any source or any special fissionable material as defined in Article XX of the Statute. The term source material shall not be interpreted as applying to ore or ore residue. Any determination by the Board under Article XX of the Statute after the entry into force of this Agreement which adds to the materials considered to be source material or special fissionable material shall have effect under this Agreement only upon acceptance by the Democratic People's Republic of Korea.

P. physical inventory means the sum of all the measured or derived estimates of batch quantities of nuclear material on hand at a given time within a material balance area, obtained in accordance with specified procedures.

Q. shipper/receiver difference means the difference between the quantity of nuclear material in a batch as stated by the shipping material balance area and as measured at the receiving material balance area.

R. source data means those data, recorded during measurement or calibration or used to derive empirical relationships, which identify nuclear material and provide batch data. Source data may include, for example, weight of compounds, conversion factors to determine weight of element, specific gravity, element concentration, isotopic ratios, relationship between volume and manometer readings and relationship between plutonium produced and power generated.

S. strategic point means a location selected during examination of design information where, under normal conditions and when combined with the information from all strategic points taken together, the information necessary and sufficient for the implementation of safeguards measures is obtained and verified; a strategic point may include any location where key measurements related to material balance accountancy are made and where containment and surveillance measures are executed.

DONE at Vienna, on the thirtieth day of January 1992, in duplicate, in the Korean, Russian and English languages, the texts of which are equally authentic except that, in case of divergence, the English text shall prevail.

For the GOVERNMENT OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA:

(signed) Hong Gun Pyo

For the INTERNATIONAL ATOMIC ENERGY AGENCY:

(signed) Hans Blix

ANNEX 3

REPORT ON THE IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Resolution adopted by the Board on 25 February 1993*/

The Board of Governors,

(a) Having considered the Report of the Director General and the statements by the Representative of the Democratic People's Republic of Korea on the Implementation of the Safeguards Agreement between the Democratic People's Republic of Korea and the International Atomic Energy Agency,

(b) Taking account of the rights and obligations under the Safeguards Agreement between the Democratic People's Republic of Korea and the International Atomic Energy Agency (INFCIRC/403),

(c) Taking serious note of the significant inconsistencies between the Democratic People's Republic of Korea's declarations and the Secretariat's findings resulting from ad hoc inspections and sample analysis which remain unresolved despite extensive discussions,

(d) Noting that on February 9, 1993 the Director General, acting on the basis of Articles 73(b) and 77 concerning special inspections, has formally requested the Democratic People's Republic of Korea to grant access to specific additional information and to two locations,

(e) Recalling that at its December 1992 session, the Board reiterated the need for full and effective implementation of the Safeguards Agreement voluntarily entered into by the Democratic People's Republic of Korea and had called for full cooperation on the part of the Democratic People's Republic of Korea's authorities,

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*/ The resolution was adopted in closed session. At the same time the Board decided to issue it as a normal Board document available to all Member States.

1. Calls for full and prompt implementation of the Safeguards Agreement between the Democratic People's Republic of Korea and the International Atomic Energy Agency;

2. Stresses that it is essential to verify the correctness and assess the completeness of the Democratic People's Republic of Korea's Initial Report;

3. Supports the actions already taken by the Director General in this regard;

4. Calls upon the Government of the Democratic People's Republic of Korea urgently to extend full cooperation to the International Atomic Energy Agency to enable the Agency fully to discharge its responsibilities under the Safeguards Agreement and to respond positively and without delay to the Director General's request of February 9, 1993 for access to additional information and two additional sites;

5. Decides that access to additional information and two additional sites, referred to in paragraph 4, is essential and urgent in order to resolve differences and to ensure verification of compliance with INFCIRC/403;

6. Requests the Director General to transmit this Resolution to the Democratic People's Republic of Korea, to continue dialogue with the Democratic People's Republic of Korea with a view toward urgent resolution of the issues above, and to report again to the Board of Governors on the matter not later than one month from the date of adoption of this resolution at a further meeting of the Board of Governors to be convened for this purpose;

7. Decides to remain seized of the matter and to consider further measures as provided for in the Safeguards Agreement between the International Atomic Energy Agency and the Democratic People's Republic of Korea and Statute of the International Atomic Energy Agency.

ANNEX 4

Communication dated 26 February 1993 from the Director General of the International Atomic Energy Agency addressed to the Minister for Foreign Affairs of the Democratic People's Republic of Korea*

As you are aware, the Board of Governors met on 22, 23 and 25 February to consider its agenda item, "Report on the implementation of the Agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons". At the end of its deliberations, the Board adopted the attached resolution without a vote.

Operative paragraph 4 reads as follows:

"Calls upon the Government of the Democratic People's Republic of Korea urgently to extend full co-operation to the International Atomic Energy Agency to enable the Agency fully to discharge its responsibilities under the safeguards agreement and to respond positively and without delay to the Director General's request of February 9, 1993 for access to additional information and two additional sites".

In operative paragraph 5 of the resolution, the Board:

"Decides that access to additional information and two additional sites, referred to in paragraph 4, is essential and urgent in order to resolve differences and to ensure verification of compliance with INFCIRC/403".

Operative paragraph 6 of the resolution:

"Requests the Director General to transmit this Resolution to the Democratic People's Republic of Korea, to continue dialogue with the Democratic People's Republic of Korea with a view toward urgent resolution of the issues above, and to report again to the Board of Governors on the matter not later than one month from the date of adoption of this resolution at a further meeting of the Board of Governors to be convened for this purpose".

* Previously issued as document S/25445, annex II.

I am addressing this telex to you to seek your co-operation in the implementation of that resolution. In particular, I ask you to receive an inspection mission that would leave Vienna on 13 March and arrive in Pyongyang on 16 March. Its principal focus will be to seek additional information required by the Agency as part of its efforts to clarify inconsistencies noted between the DPRK's declarations and the Agency's findings. The information now being sought was discussed in Vienna on 20 and 21 February between a DPRK delegation led by Minister Choi and an Agency delegation led by me. The specifics are contained in a letter of 25 February from Mr. Schuricht, Director of Division of Operations A, Department of Safeguards to Mr. Choi Jong Sun, Director of External Relations, Ministry of Atomic Energy. In order to help prepare for the mission, it would be helpful if, to the extent possible, the requested information could be provided by facsimile to the Agency in advance.

The inspection mission will also be authorized to visit the two sites identified in my telex of 9 February to Minister Choi, namely:

(a) the site which Agency officials visited on 14 September 1992 and which is located east of the Radiochemical Laboratory

(b) the site described in my letter of 15 January to Minister Choi.

I would appreciate an early response to this cable. I very much hope that continuing dialogue between the Agency and the DPRK authorities and full co-operation by the DPRK will lead to full and prompt implementation of the Safeguards Agreement as called for by the Agency's Board of Governors.

ANNEX 5

Communication dated 10 March 1993 from the Minister for Atomic Energy of the Democratic People's Republic of Korea addressed to the Director General of the International Atomic Energy Agency *

It is to acknowledge the receipt of your telex dated 26 February.

I have several times mentioned our view, position and the solution regarding clarification of "inconsistencies" and access of two additional sites requested by you. Nevertheless some officials in the IAEA secretariat involved in the superpower's strategy against Korea presented the problems which could have been solved without any difficulties through the ad hoc inspections exaggeratedly in difference with reality to the February Board meeting, and thereby the Board adopted the unjust resolution. It is very regretful for us.

Now the United States and south Korean authorities reopened the joint military exercise "Team Spirit" which was ceased and they are conducting the nuclear war exercise mobilizing the large-scale armed forces against us.

In this context our country has been put in the state of semi-war by the order of the Supreme Commander on 8 March 1993, from 9 March.

I have to inform you under such political and military circumstances created in our country that we could not but reserve consideration of the receipt of the inspection team concerning the implementation of the unjust resolution of the February Board meeting.

CHOI Hak Gun
Minister, Ministry of Atomic Energy

* Previously issued as document S/25445, annex III.

ANNEX 6

Communication dated 10 March 1993 from the Director General of the International Atomic Energy Agency addressed to the Minister for Foreign Affairs of the Democratic People's Republic of Korea *

I thank you for your telex of 10 March 1993 replying to my telex of 26 February.

I understand your telex to mean that, as your country has been "put in the state of semi-war", you are not in a position to consider receiving an IAEA inspection team. I am bound to note that this cannot impede the implementation of the Safeguards Agreement.

In its resolution of 26 February, the Board decided that access to additional information and to the two locations referred to in my telex to you of 9 February "is essential and urgent in order to resolve differences and to ensure verification compliance".

In view of the above, I ask you to consider positively the receipt of the IAEA inspection team at the earliest possible date. As you are aware, I am to report again on the matter to the Board not later than one month from the date of the adoption of the resolution.

* Previously issued as document S/25445, annex IV.

ANNEX 7

Statement issued at Pyongyang on 12 March 1993 by the Government of the Democratic People's Republic of Korea*

A grave situation has been created today in our country, which threatens its national sovereignty and the security of our State.

The United States and the South Korean Authorities have defiantly resumed the "Team Spirit" joint military exercises, a nuclear war rehearsal against the DPRK, and, in coincidence with this, some officials of the secretariat of the International Atomic Energy Agency (IAEA) and certain member nations following the lead of the United States had a "resolution" adopted at the 25 February meeting of the IAEA Board of Governors, demanding a special inspection of our military sites unrelated to nuclear activities.

This is an encroachment on the sovereignty of the DPRK, an interference in its internal affairs and a hostile act aimed at stifling our socialism. The DPRK Government sharply condemns the reckless nuclear war machinations of the United States and the South Korean Authorities against the Korean people and decisively rejects the unjust resolution of the meeting of the IAEA Board of Governors.

Proceeding from its anti-nuclear, peace policy, the DPRK Government joined the Nuclear Non-Proliferation Treaty (NPT) and has since fulfilled its obligations under the NPT in good faith. It was on the premise that the depository States of the NPT should neither deploy their nuclear weapons on the Korean peninsula nor pose any nuclear threat against the DPRK that the DPRK Government signed the safeguards agreement with the IAEA and accepted the IAEA inspections.

Nevertheless, the United States remains unchanged in continuing its nuclear war threats against the DPRK, far from fulfilling its obligations under the NPT as a nuclear-weapon State to withdraw its nuclear weapons from South Korea and remove its nuclear war threats against the DPRK. The United States still maintains its nuclear weapons in South Korea and continues to reinforce its nuclear storages there with modernized nuclear weapons and equipment.

This serves to prove that the "statements" such as the so-called announcement on the "complete withdrawal of tactical nuclear weapons" by the United States and the "declaration on the absence of nuclear weapons" by the South Korean Authorities were all nothing but a trickery to deceive our people and the world peoples.

Although an agreement on non-aggression was reached between the North and the South and the DPRK has been faithfully fulfilling its international obligations under the NPT and the safeguards agreement, the proposed inspection of the United States nuclear weapons and nuclear bases in South Korea remains yet to be carried out and our people's misgivings about the United States nuclear threats have not yet been dispelled.

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* Previously issued as document S/25445, annex V.

Despite the strong opposition by our people and the world peoples, the United States resumed when the inspection of our country by the IAEA was going on the "Team Spirit" joint military exercises, which it had suspended before the IAEA inspections of the DPRK started, thus openly increasing its nuclear threats.

The "Team Spirit" joint military manoeuvres run downright counter to the idea and purposes of the NPT which calls for respect of territorial integrity and sovereignty and stop to nuclear threat. The resumption of the "Team Spirit" joint military manoeuvres, a nuclear war rehearsal targeted against the DPRK, is driving the situation on the Korean peninsula to such an unpredictable extreme, which has compelled our country to enter a semi-war state.

Still more grave is the fact that the IAEA passed a resolution aimed at forcing a "special inspection" of our military installations, thus joining the United States in its anti-DPRK machinations to "internationalize" the so-called "nuclear problem" of the DPRK and to impose "collective sanctions" and "pressure" on it.

It is on the basis of the "intelligence information "fabricated by the United States, a belligerent party vis-à-vis the DPRK, that some officials of the IAEA secretariat are trying to enforce the inspection of our major military installations which are unrelated to nuclear activities.

As for an inspection of the military installations in question, it has nothing to do at all with the inspections under the safeguards agreement. And it is a matter outside the competency of the IAEA.

If we submissively accept an unjust inspection by the IAEA, it would legitimize the espionage acts by the United States, a belligerent party vis-à-vis the DPRK, and set the beginning of the full exposure of all our military installations. Under our specific conditions in which the country still remains divided and exposed to the constant nuclear threats from the United States, it will be totally inconceivable to lay our military sites open to the enemies.

It is an old method of the United States to satisfy its demands one by one, that is, to demand the opening of one military site today and another tomorrow.

If we refuse to accept the "special inspection" of our military sites, the United States plans to charge the DPRK with "non-implementation of the special inspection" and take the matter to the Security Council of the United Nations so as to impose "collective sanctions" on the DPRK. This is the very scenario which the United States has written in advance.

If we failed to hold in check such conspiracy of the United States and its followers, our entire nation would be driven into confrontation and war and be made a victim of the big Powers.

Some officials of the IAEA secretariat have broken away from their original standpoint of supervising the implementation of the NPT on the basis

of impartiality and strict neutrality. Therefore they can never evade the responsibility for joining the United States in its anti-DPRK manoeuvres.

. Some officials of the IAEA secretariat insist so stubbornly on the "inspection" of our military bases, as dictated by the United States, while ignoring our demand for an inspection of the nuclear weapons and nuclear bases of the United States in South Korea. This is obviously an act biased in favour of the United States. A belligerent party vis-á-vis the DPRK.

Moreover, we can hardly repress our indignation at the application of dual criteria by the IAEA, which is putting pressure to bear upon the DPRK on charges of the alleged "nuclear weapons development", while tacitly approving the moves of Japan and South Korea for their nuclear armament.

The accession to the NPT by the DPRK Government was intended to remove the nuclear threats of the United States against the DPRK, never to sacrifice its sovereignty and security for someone's benefit. Because of the imprudent machinations on the part of the United States and its adherent forces, each time we undergo an inspection of the IAEA the nuclear threats against the DPRK increase, and the peace and security on the Korean peninsula is not ensured but disturbed.

All these facts evidently show that the United States, those forces hostile to the DPRK and some officials of the IAEA secretariat are misapplying the NPT to jeopardize the sovereignty and security of our country, a non-nuclear-weapon State, and stifle our socialist system.

Under such abnormal situation prevailing at present, we are no longer able to fulfil our obligations under the NPT.

The Government of the Democratic People's Republic of Korea declares its decision to withdraw unavoidably from the Nuclear Non-Proliferation Treaty as a measure to defend its supreme interests.

The withdrawal from the NPT is a well-justified self-defensive measure against the nuclear war manoeuvres of the United States and the unjust act of some officials of the IAEA secretariat against the DPRK. The DPRK's principled stand will remain unchanged until the United States stops its nuclear threats against the DPRK and the IAEA secretariat returns to its principle of independence and impartiality.

The United States must give up its outdated way of thinking of the cold war era and immediately stop the "Team Spirit" joint military exercises, a nuclear war rehearsal, and refrain from manipulating the IAEA to discredit and strangle the non-nuclear-weapon States.

Even if the United States, the forces hostile to the DPRK and some officials of the IAEA secretariat threaten us with the "special inspection" or a certain "measure", we will never be frightened in the least. No robber-like argument and strong-arm acts will go down with us. Whatever "military threat", "political and ideological offensive" or "blockade" cannot block the march of our people.

The DPRK Government's policy of using nuclear energy for peaceful purpose remains unchanged and our people will continue to make every effort to turn the Korean peninsula into a nuclear weapon-free zone.

We avail ourselves of this opportunity to express our thanks to many IAEA member States and a number of the members of the IAEA Board of Governors cherishing international justice for their support and sympathy for the just stand of the DPRK.

Our rejection of the unjust "resolution" forced by the United States upon the meeting of the IAEA Board of Governors is meant to defend our country's sovereignty and at the same time to safeguard the common interests of the developing countries.

The Government of the Democratic People's Republic of Korea and the Korean people are convinced that the Governments and peoples of the countries of the world that value peace and justice will pay a profound attention to the serious situation on the Korean peninsula and extend their support and solidarity to the self-defensive measure of the DPRK Government.

ANNEX 8

Communication dated 12 March 1993 from the Director General of the International Atomic Energy Agency addressed to the Minister for Foreign Affairs of the Democratic People's Republic of Korea *

The Agency has received, from the DPRK Permanent Mission in Vienna, a copy of your Government's statement of 12 March declaring its decision to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

I expect to report very soon to the Board of Governors of the IAEA on the implications for the Safeguards Agreement between the IAEA and the DPRK of such a grave step. The justification for a withdrawal will certainly be seriously considered by the Parties to the Treaty. For the IAEA, which is responsible for the implementation of safeguards in the DPRK, under the Agreement concluded pursuant to Article III of the NPT, I am bound to point out that the Treaty and the Safeguards Agreement remain duly in force until any withdrawal takes effect, i.e. after three months advance notice to all other Parties and to the United Nations Security Council.

It follows that a declaration of intention to withdraw from the NPT shall not impede the implementation of the Safeguards Agreement. My request contained in my telex of 10 March that you "consider positively the receipt of the IAEA Inspection Team at the earliest possible date" therefore still stands.

I can assure you that the Agency will continue as always to implement the Safeguards Agreement with objectivity and impartiality. The sole objective is to seek clarity about the nuclear activities in the DPRK subject to safeguards.

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* Previously issued as document S/25445, annex VI.

ANNEX 9

Communication dated 16 March 1993 from the Minister for Atomic Energy of the Democratic People's Republic of Korea addressed to the Director General of the International Atomic Energy Agency *

I acknowledge the receipt of your telex of 12 March. It was agreed at our several meetings that the problems raised in the implementation of the safeguards agreement should be solved through consultations, and at that time, you recognized that any mistake could be made in Agency inspection and said that Agency would review it again since "principal inconsistencies" are not the matter unable to be clarified.

Nevertheless, before doing reviews and consultations you submitted "inconsistencies" which do not exist to some Member States without agreement with us and thus internationalized the matter of the implementation of our safeguards agreement, neglecting our sincere efforts for clarification of the "inconsistencies".

Moreover the nuclear threat by the U.S. against our country is being increased and "Team Spirit" joint military exercises, a nuclear war manoeuvre which was suspended are resumed and in coincidence with this, you submitted to the February Board meeting the report which is quite different from the real situation using the "intelligence information" fabricated by a third party and thus enabled the Board of Governors to adopt the unjust resolution of "special inspection" concerning our military sites not relevant to nuclear activity. This is a clear evidence showing that you joined in the plot of hostile country, a party in hostilities towards us which is trying to make our military sites open, to disarm us and thereby to strangle our socialist system.

* Previously issued as document S/25445, annex VII.

The Government of the DPRK declared solemnly to withdraw from NPT on 12 March, because the increased nuclear threat by the U.S. against our country and unjust resolution adopted at the February Board meeting jeopardized the sovereignty of our nation and the supreme interests of our country. One of the major reasons for withdrawal from NPT is that some officials of the IAEA Secretariat departed from the objectivity and impartiality and joined in a plot of a party in hostilities towards us which is trying to strangle our socialist system.

In such circumstances, I make it clear that we cannot receive the Agency inspection teams.

I think you can never extricate yourself from the responsibility for all consequences resulting from this.

I ask you to circulate to the Governor's Member States this letter including my letters to you dated 14 and 27 January, 15 February and 10 March.

CHOI Hak Gun
Minister of Atomic Energy, DPRK

ANNEX 10

REPORT BY THE DIRECTOR GENERAL ON THE IMPLEMENTATION OF THE RESOLUTION ADOPTED BY THE BOARD ON 25 FEBRUARY 1993 (GOV/2636) AND OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (INFCIRC/403)

Resolution adopted by the Board on 18 March 1993 *

The Board of Governors,

(a) Recalling its Resolution of 25 February in which the Board called upon the Democratic People's Republic of Korea (DPRK) to give the IAEA access to additional information and to two additional sites with a view to implementing the Safeguards Agreement of May 1992 (INFCIRC/403),

(b) Regretting the absence, so far, of a positive response by the DPRK,

(c) Noting the recent announcement of the DPRK regarding its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons and the implications for the Safeguards Agreement with the Agency in the DPRK if such withdrawal were to take effect,

(d) Concerned, in particular, that this announcement comes at a time when the IAEA is seeking specific clarifications regarding the correctness and completeness of the initial report on nuclear material submitted by the DPRK,

1. Approves the efforts of the Secretariat to implement the Board's Resolution as reported in GOV/INF/683;

2. Reaffirms its full confidence in the Director General and the Secretariat, and its support for the actions they have taken to implement the Safeguards Agreement with the DPRK in an impartial and an objective manner;

3. Confirms that INFCIRC/403 remains in force and that it is essential and urgent that the DPRK enable the Agency to take the necessary measures to resolve differences and to ensure verification of compliance with that Safeguards Agreement;

4. Requests the Director General to continue his efforts and dialogue, taking all the appropriate contacts, and to report further on the response of the DPRK to the Resolution of 25 February at a meeting of the Board to be held on 31 March 1993.

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* Previously issued as document S/25445, enclosure I.

ANNEX 11

Telex dated 19 March 1993 from the Director General of the International Atomic Energy Agency to the Minister for Atomic Energy of the Democratic People's Republic of Korea

As you know, the Board of Governors meeting was convened on 18 March to consider my report on the implementation of the resolution adopted by the Board on 25 February 1993 and of the NPT safeguards greement between the Agency and the DPRK.

Attached is the resolution adopted by the Board on 18 March. As you can see, the Board confirmed that the safeguards agreement between the DPRK and the IAEA contained in INFCIRC/403 remains in force and that it is essential and urgent that the DPRK enable the Agency to take the necessary measures to resolve differences and to ensure verification of compliance with that safeguards agreement. To that end the Board requested the Director General to continue his efforts and dialogue, taking all the appropriate contacts.

I would therefore ask you again to arrange for access by Agency inspection teams to DPRK. If access were not to be obtained I would have no other choice than to report non-compliance when the Board meets again on 31 March.

I am aware of your statements that the two additional sites which we wish to visit are military. While this in no way immunizes them from inspection, we are ready to discuss arrangements which might minimize security concerns, if such can be found that do not reduce the effectiveness of the inspection, including sample taking.

I regret the statements in your telex of 1993-03-16 concerning the impartiality and objectivity of the IAEA secretariat. I find them unfair and the resolution of the Board - adopted without a vote - took the same view. The secretariat consistently endeavours to implement safeguards in the DPRK as elsewhere with objectivity and impartiality. This will continue to be our policy.

ANNEX 12

Telex dated 30 March 1993 from the Minister for Atomic Energy of the Democratic People's Republic of Korea to the Director General of the International Atomic Energy Agency

I acknowledge the receipt of your telex dated March 19. As for the March 18 "resolution", referred to in your telex, I would like to make clear once again our principal position that we categorically reject it because the "resolution" is considered as an urging the implementation of the last February 25 "resolution".

In your telex you pointed out quote if access were not to be obtained I would have no other choice than to report non-compliance when the Board meets again on 31 March unquote, and it is another unjust act that you departed from the impartiality and objectivity and you are trying to solve our problem through pressure. In particular, recently you and some Agency's officials including the IAEA's spokesman are making the impression as if we were rejecting to implement the safeguards agreement as a whole. This is an act of talking black into white, and therefore we cannot but draw the attention of you and the IAEA Secretariat to unfair handling aimed at seeking other purpose by branding us as the "non-compliance".

It is the mutually recognized fact that we, so far, has not only fulfilled our obligation under the safeguards agreement in good faith but also provided all possible convenience and co-operation to the Agency even by granting access to important military sites so that the IAEA could discharge its responsibilities fully. All the facts show that there are neither justification nor reasons whatsoever for imposing on us the "false charge" and failure to comply with safeguards agreement is not us but some Agency's officials.

On this opportunity, I would like to reaffirm that the issue of "special inspection" you insist could not be a matter of discussion.

However I would like to make it clear that we are always ready to response to it if the Agency's Secretariat wishes to consult with us on the implementation of the safeguards agreement.

CHOI Hak Gun
Minister for Atomic Energy